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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,264	12/22/2000	Stephen John Blanchard	PPC-775	9836

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 08/01/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

Office Action Summary

Application No.

09/746,264

Applicant(s)

BLANCHARD ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 21 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 May 2003 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 10 recite the limitation "the center region" in lines 20-21. There is insufficient antecedent basis for this limitation in the claims. Previously, a central region was disclosed.

Claim 10 recites the limitation "said hinge" in line 23. There is insufficient antecedent basis for this limitation in the claim.

Claims 11 and 12 recite the limitations "the first hinge" and "the second hinge". There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 5, 6, 10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (6,503,233).

Chen discloses a sanitary napkin 10, as shown in figure 1, comprising a main body portion having a liquid permeable cover layer, a liquid impermeable barrier layer 26, and an absorbent element 12. The main body portion further has longitudinal edges and transverse edges, as shown in figure 1. The sanitary napkin 10 comprises a central region 13 and first and second end regions, as shown in figure 1. At least two longitudinally extending hinges 18 and 22 are located substantially within the central region 13 adjacent to and inward from each longitudinal edge, as shown in figure 1. The hinges 18 and 22 provide a longitudinally extending bending axis, as disclosed in column 18, lines 13-20 and 29-36. The hinges 18 and 22 are spaced apart along at least a portion of their length, as shown in figure 1. At least one hinge 18 has a radius of curvature, and an adjacent hinge 22 is substantially straight.

With respect to claim 3, the hinge 22 that is substantially straight is closer to the central longitudinal axis than the hinge 18 that has a radius of curvature, as shown in figure 1.

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With respect to claims 5 and 6, the hinges 18 and 22 are formed from a densified channel, as disclosed in column 7, lines 56-59.

With respect to claim 10, the radius of curvature of hinge 18 is greater than the radius of curvature of hinge 22, which is zero, as shown in figure 1.

With respect to claim 12, the hinge 22 with a lower radius of curvature is closer to the central longitudinal axis than the hinge 18 with a greater radius of curvature, as shown in figure 1.

Claims 1, 3, 5, 6, 10, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Glassman (4,758,240).

Glassman discloses a sanitary napkin, as shown in figure 2, comprising a main body portions having a liquid permeable cover layer 19, a liquid impermeable barrier layer 24, and an absorbent element 15. The main body portion further has longitudinal edges and transverse edges, as shown in figure 2. The sanitary napkin comprises a central region and first and second end regions, as shown in figure 2. At least two longitudinally extending hinges 18 and 12a are located substantially within the central region adjacent to and inward from each longitudinal edge, as shown in figure 2. The hinges 18 and 12a provide a longitudinally extending bending axis, and are spaced apart along at least a portion of their length, as shown in figure 2. At least one hinge 18 has a radius of curvature, and an adjacent hinge 12a is substantially straight.

With respect to claim 3, the hinge 12a that is substantially straight is closer to the central longitudinal axis than the hinge 18 that has a radius of curvature, as shown in figure 2.

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With respect to claims 5 and 6, the hinges 18 and 22 are formed from a densified channel, as disclosed in column 4, lines 15-34.

With respect to claim 10, Glassman discloses multiple hinges 18, each hinge 18 having an larger radius of curvature than the preceding hinge 18.

With respect to claim 11, the hinge 18 closest to the central longitudinal axis has a greater radius of curvature than the hinge 18 farthest from the axis, as shown in figure 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 7, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (4,758,240).

With respect to claims 2 and 4, Glassman discloses all aspects of the claimed invention with the exception of the curved line being closer to the central longitudinal axis. It would have been an obvious matter of design choice to have the curved line closer to the central longitudinal axis, since the applicant has not disclosed that the curved line being closer to the longitudinal axis serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with either the straight or curved line closer to the central longitudinal axis.

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With respect to claim 7, Glassman remains silent as to the density of the densified areas. Glassman discloses densified channels having an increased density in column 4, lines 23-27. It would have been obvious to one of ordinary skill in the art at the time of invention to have the density be greater than 0.5 g/cc, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

With respect to claim 12, Glassman discloses all aspects of the claimed invention with the exception of the hinge having a lower radius of curvature being closer to the central longitudinal axis. It would have been an obvious matter of design choice to have the hinge having the lower radius of curvature closer to the central longitudinal axis, since the applicant has not disclosed that the curved line being closer to the longitudinal axis serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with either hinge closer to the central longitudinal axis.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (4,758,240) in view of Coles et al. (5,672,642).

Glassman discloses all aspects of the claimed invention with the exception of densified end channels. Coles discloses the use of longitudinal hinges, with barrier end channels 17, that are regions of the core having wax applied thereto. It is the examiner's position that the application of wax creates densified channels. Coles discloses in columns 1 and 2, that the densified end channels prevent soiling at the edges of the sanitary napkin. It would have been obvious to one of ordinary skill in the

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art at the time of invention to construct the sanitary napkin of Glassman with the densified end channels of Coles in order to prevent end soiling at the edges of the sanitary napkin.

With respect to claim 9, Coles discloses the side channels and end channels being more than 3 mm apart, as shown in figure 3.

Claims 2, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (6,503,233).

With respect to claims 2 and 4, Chen discloses all aspects of the claimed invention with the exception of the curved line being closer to the central longitudinal axis. It would have been an obvious matter of design choice to have the curved line closer to the central longitudinal axis, since the applicant has not disclosed that the curved line being closer to the longitudinal axis serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with either the straight or curved line closer to the central longitudinal axis.

With respect to claim 7, Chen remains silent as to the density of the densified areas. Chen discloses densified channels having an increased density in column 7, lines 56-59. It would have been obvious to one of ordinary skill in the art at the time of invention to have the density be greater than 0.5 g/cc, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (6,503,233) in view of Coles et al. (5,672,642).

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Chen discloses all aspects of the claimed invention with the exception of densified end channels. Coles discloses the use of longitudinal hinges, with barrier end channels 17, that are regions of the core having wax applied thereto. It is the examiner's position that the application of wax creates densified channels. Coles discloses in columns 1 and 2, that the densified end channels prevent soiling at the edges of the sanitary napkin. It would have been obvious to one of ordinary skill in the art at the time of invention to construct the sanitary napkin of Chen with the densified end channels of Coles in order to prevent end soiling at the edges of the sanitary napkin.

With respect to claim 9, Coles discloses the side channels and end channels being more than 3 mm apart, as shown in figure 3.

Response to Arguments

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the hinges being located in their entirety in the central region) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Glassman discloses hinges, at least 50% of which are located in the central region of the sanitary napkin. Glassman therefore discloses hinges that are located substantially within the central region.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CLA

cla

July 15, 2003



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